REMARKS

Claims 1, 3, 5-16 and 21-23 are pending. The Examiner's reconsideration of the rejections is respectfully requested in view of the amendments and remarks.

Claims 1, 3, 7-9, 13-16, and 21-23 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Zweben et al. (U.S. Patent Application No. 2002/0169686) in view of Godsey et al. (US 2002/0161651) and further in view of Jenkins (USPN 5,186,281). The Examiner stated essentially that the combined teachings of Zweben, Godsey and Jenkins teach or suggest all the limitations of claims 1, 3, 7-9, 13-16, and 21-23.

Claim 1 claims, *inter alia*, "receiving the electronic service request including the customer purchase order; tracking a location of the mobile device issued to the customer; and delivering the product to a checkout register <u>according to the location to which the mobile device is tracked</u>." Claim 9 claims, *inter alia*, "determining a customer purchase order for a selected product, the electronic service request including the customer purchase order; tracking a location of the mobile device issued to the customer to a checkout register; and delivering the selected product to the checkout register <u>according to the location to which the mobile device is tracked</u>."

Multiple cited prior art references must suggest the desirability of being combined, and the references must be viewed without the benefit of hindsight afforded by the disclosure. The Examiner has chosen a multitude of references, apparently in hindsight, to reject claims 1 and 9, however, at least Godsey and Jenkins teach away from their combination. For example, Godsey teaches tracking a product container (i.e., a shopping cart) through a store for evaluating, among other things, <u>product placement</u> in the sales environment, while Jenkins teaches a computerized selection wherein no product container is needed (products are not placed in a sales environment,

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but are selected from display screens). Thus, Godsey's method for tracking a product container, requiring that products be placed in a sales environment, teaches away from a method in which products are not placed in a sales environment such as Jenkins' system. Similarly Jenkins teaches away from product containers, such as those taught by Godsey; Jenkins teaches that products are selected from display screens, thus no product container is needed. Therefore, given the lack of a suggestion or motivation to combine the references, these references are not believed to be combinable. Therefore, reconsideration of the rejection is respectfully requested.

Claims 1 and 9 are believed to be allowable for additional reasons.

Zweben teaches a system and method for providing targeted product and service information to retail consumers (see paragraph [0003]). The targeted product and service information is provided based on search criteria (see paragraph [0041]) or based on an identification of a specific product (see paragraph [0042]). Zweben does not teach or suggest "delivering the product to a checkout register according to the location to which the mobile device is tracked" as claimed in claim 1 or "delivering the selected product to the checkout register according to the location to which the mobile device is tracked" as claimed in claim 9. Zweben teaches that a consumer provides either search criteria for determining a product that has yet to be identified or an identification of a specific product (see Figures 4 and 5). Zweben's method retrieves product information, cross-sell information, and up-sell information based either on the search criteria describing products or product identification (see paragraph [0043]). Nowhere does Zweben teach or suggest delivering a selected product, much less delivering a product to a checkout register according to a location to which a mobile device is tracked. Therefore, Zweben fails to teach or suggest all the limitations of claims 1 and 9.

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Godsey teaches methods for tracking shopping carts through a store (see paragraph [0019]). Godsey does not teach or suggest "delivering the product to a checkout register according to the location to which the mobile device is tracked" as claimed in claim 1 or "delivering the selected product to the checkout register according to the location to which the mobile device is tracked" as claimed in claim 9. Godsey teaches tracking a shopping cart and using tracking data to determine parameters such as product placement (see paragraph [0036]). Godsey teaches tracking a shopping cart path and placing products according to recorded data about the shopping carts' path. Tracking shopping carts, devices for carrying products to a checkout register, as taught by Godsey, does not teach or suggest delivering a product to a checkout register according to a location to which a mobile device is tracked. Godsey's delivery of a product to a checkout register is independent of the location of the shopping cart. Thus, there is no delivering according to a location to which the shopping cart is tracked. Nowhere does Godsey teach or suggest a product being delivered to a checkout register "according to the location to which the mobile device is tracked," essentially as claimed in claims 1 and 9. Therefore, Godsey fails to cure the deficiencies of Zweben.

Jenkins teaches a system and method for selecting an item from a display panel of items and proceeding to a predetermined finalizing terminal where the item is delivered for pickup (see Figure 8). Jenkins does not teach or suggest "delivering the product to a checkout register according to the location to which the mobile device is tracked" as claimed in claim 1 or "delivering the selected product to the checkout register according to the location to which the mobile device is tracked" as claimed in claim 9. Products of Jenkins are delivered to the finalizing terminal upon being selected by the customer. (see Figures 1 and 8). The delivering of the item to the finalizing terminal is independent of the location of the user or any other item.

Further, the system and method of Jenkins has no need for tracking a customer or his/her device; all products are delivered to the finalizing terminal. Thus, Jenkins' delivery of goods is in no way related to a position of customer, much less the position of a mobile device. Therefore, Jenkins fails to cure the deficiencies of Zweben and Godsey.

The combined teachings of Zweben, Godsey and Jenkins fail to teach or suggest a delivery of goods "according to the location to which the mobile device is tracked." Therefore, the combined teachings of Zweben and Godsey fail to teach or suggest "delivering the selected product to the checkout register upon tracking the mobile device to the checkout register" as claimed in claims 1 and 9.

Claims 3, 7, 8 and 21 depend from claim 1. Claims 13-16, 22 and 23 depend from claim 9. The dependent claims are believed to be allowable for at least the reasons given for claims 1 and 9. The Examiner's reconsideration of the rejection is respectfully requested.

Claim 5 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Zweben in view of Godsey, further in view of Jenkins and further in view of Lefkowith (U.S. Patent Application No. 2002/0188501). The Examiner stated essentially that the combined teachings of Zweben, Godsey, Jenkins and Lefkowith teach or suggest all the limitations of claim 5.

Claim 5 depends from claim 1. Claim 5 is believed to be allowable for at least the reasons given for claim 1. The Examiner's reconsideration of the rejection is respectfully requested.

Claim 6 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Zweben in view of Godsey, further in view of Jenkins and further in view of Official Notice. The Examiner stated essentially that the combined teachings of Zweben, Godsey, Jenkins, and information recognized by Official Notice teach or suggest all the limitations of claim 6.

Claim 6 depends from claim 1. Claim 6 is believed to be allowable for at least the reasons given for claim 1. The Examiner's reconsideration of the rejection is respectfully requested.

Claims 10-11 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Zweben in view of Godsey, further in view of Jenkins and further in view of Saito et al. (U.S. Patent Application No. 2001/0014870). The Examiner stated essentially that the combined teachings of Zweben, Godsey, Jenkins and Saito teach or suggest all the limitations of claims 10-11.

Claims 10-11 depend from claim 9. The dependent claims are believed to be allowable for at least the reasons given for claim 9. The Examiner's reconsideration of the rejection is respectfully requested.

Claim 12 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Zweben in view of Godsey, further in view of Jenkins and further in view of Saito, and further in view of Official Notice. The Examiner stated essentially that the combined teachings of Zweben, Saito and Official Notice teach or suggest all the limitations of claim 12.

Claim 12 depends from claim 9. Claim 12 is believed to be allowable for at least the reasons given for claim 9. The Examiner's reconsideration of the rejection is respectfully requested.

Claims 17, 19, 25 and 26 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Zweben in view of Ambrose et al. (U.S. Patent Application No. 2002/0065879). The Examiner stated essentially that the combined teachings of Zweben and Ambrose teach or suggest all the limitations of claims 17, 19, 25 and 26.

Claims 17, 19 and 26 have been cancelled herein. Claim 25 was cancelled by the Amendment filed April 22, 2005. The Examiner's reconsideration of the rejection is respectfully requested.

Claim 18 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Zweben and Ambrose in view of Yacoby (U.S. Patent No. 6,516,311). The Examiner stated essentially that the combined teachings of Zweben, Ambrose and Yacoby teach or suggest all the limitations of claim 18.

Claim 18 has been cancelled. The Examiner's reconsideration of the rejection is respectfully requested.

For the forgoing reasons, the application, including claims 1, 3, 5-16 and 21-23, is believed to be in condition for allowance. Early and favorable reconsideration of the case is respectfully requested.

Respectfully submitted,

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